

IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY

Church of St Edith, Monk's Kirby
Re Lady Mary Feilding (deceased).

Private Petition for permission to :
(i) remove existing memorial; and
(ii) erect non-conforming memorial in Churchyard
C6703/2021

JUDGMENT

1. By an application dated 5th March 2021 Lady Samantha Feilding makes petition for the removal of a severely damaged memorial upon the grave of her Great, Great, Great, Great Aunt, Lady Mary Feilding, to be replaced with a honed granite memorial based upon photographs and a written description of the original memorial from 1896 or shortly thereafter.
2. Lady Mary Frances Catherine Feilding died shortly after her 73rd birthday in April 1896. Upon her grave was set a memorial of an upright cross atop three tiers of stone with kerbstones bearing an inscription around the edge. A photograph enclosed with the petition shows that the cross no longer stands atop the three tiers and has been broken. It now rests against the three tiers

and is overgrown with grass. Also the original kerbs have been removed and some parts may possibly be under the pieces of the broken cross.

3. Among the charitable works performed by Lady Mary Feilding in her life was the creation of a Working Ladies Guild that promoted employment and suitable housing for Ladies in need of some support. That organisation became the Mary Feilding Guild and ultimately owned a care home in North London. After nearly 140 years of providing assistance the Guild has now been wound up, but the trustees of the Guild determined that a fitting tribute to the Founder would be to reinstate the memorial upon her grave and a sum of monies has been set aside for that purpose.

4. The proposed new memorial would be created in light grey honed granite with the three tiered plinth below a 30” cross. The kerbs would be 4’ long on the sides and 2’8” at the foot and 6” high (using imperial measurements like the original memorial). Karin light grey granite would be a similar colour to the original marble but would be less porous and therefore more durable in the long run. The proposed inscription would be the same as on the original memorial, as follows:

Top tier
In
Loving Memory
Of
Middle tier
Lady Mary Frances
Catherine Feilding

Bottom tier
Born April 9th 1823
Died April 24th 1896

Foot kerb
Love one another

Side Kerbs
Bear ye one another's burdens
&
By Love serve one another.

The lettering would be sand blasted (which is permitted under the churchyard regulations on granite memorials) and presumably would then be coloured in black, although the petition does not specify.

5. The existing memorial, if still intact, would be outside the Churchyard regulations, particularly because it featured kerb stones, which often cause church yard maintenance problems, especially if chippings are placed within the kerbs, as the chipping invariably gets strewn across the grass of the Churchyard. The current churchyard regulations for the diocese, issued on All Souls Day 2020 (but amended since) prevent an incumbent from authorising the installation of kerbstones, railings or chippings. The cross atop three tiers would also appear to be outside the authority delegated to the Incumbent. However, the Churchyard regulations only specify those memorials that an Incumbent can authorise without telling the petitioner that a faculty is permitted. Once a faculty is sought the Chancellor is enjoined to apply a merits test approach to the proposed memorial - effectively I am asked to consider 'Is it meet, is it proper?'

6. The proposal for the removal of the current memorial and replacement with a recreation of the original memorial was considered by the members of the Parochial Church Council of St Edith, Monks Kirby, on 4th August 2021. One member declared a conflict of interest as he is or was a trustee of the Mary Feilding Guild. The remaining members of the Council all supported the proposal. There were, however, concerns about cutting grass around kerb stones and it was proposed the Petitioner be asked to make contribution to the Churchyard maintenance fund.

7. At the meeting on 2nd September 2021 the Diocesan Advisory Committee determined to issue a notification of advice certificate of recommendation for the installation of the proposed replacement memorial. The certificate was, however, endorsed with certain recommendations, including that:

as many of the existing stones are reused as is practical;

no new curb (*sic*) stones are introduced;

care is taken that the memorial is designed to remain stable; and

a plaque or inscription is introduced near the base to explain the purpose and occasion of the restoration and Mary Feilding's legacy since her death.

8. The public notice has been displayed both inside the porch and outside the church for a period of more than 28 days and no objection has arisen from that.

9. I have considered the application with care. I am mindful that this is effectively returning that area of the Churchyard back to how it must have looked over a hundred years ago, rather than seeking to introduce an entirely new memorial. I am also mindful that the members of the Parochial Church Council indicated support for the new memorial and the members of the Diocesan Advisory Committee decided to recommend the proposed memorial, even though it clearly falls outside the Churchyard Regulations. I agree with the members of the Diocesan Advisory Committee that something will be lacking if there is no explanation shown why the memorial has been restored (or rather, replaced). I intend to make a direction concerning that. As regards stability, the current churchyard regulations require that any memorial erected complies with the relevant British Standard requirements, so that is deemed already to be a part of my directions. As the original memorial had kerb stones the new memorial may also have kerbstones, but I agree with the observations of the members of the Parochial Church Council about Churchyard maintenance issues. There is mention of the possibility of chippings being spread within the kerb stones. This would not be appropriate as scattered chippings would cause a hazard for those seeking to maintain the churchyard with mechanical devices. In those circumstances, I am satisfied that there are good and cogent reason why a faculty should be granted permitting the removal of the original memorial and the installation of the proposed new memorial. I also give permission for the reuse of the original wording and the wording may be coloured in black or

white (but not in silver or gold). A plaque or other inscription will be required to explain the restoration of the memorial to its original appearance.

Subject to the following conditions, let a faculty be issued :-

Conditions

- (a) The Petitioner shall within one calendar month of installation formally notify the Churchwarden(s) of the Parish in writing that the works have been completed, so that details of the removal of a memorial and replacement with a new memorial can be entered in the church log book;
- (b) The petitioner shall supply to the Churchwarden(s) of the Parish a copy of the final design of the new headstone and the photographs enclosed with the petition so they can be retained with the parish records;
- (c) The petitioner shall ensure that the monumental mason complies with the current British Standard concerning the erection and stability of the memorial;
- (d) The monumental mason shall consider with care whether any of the original stonework can be incorporated into the new memorial (without compromising the stability of the new memorial);
- (e) No chippings may be placed within the kerb stones of this memorial;
- (f) The petitioner shall ensure that provisions have been made regarding the expenses of churchyard maintenance with those representing the parish in such matters;

- (g) The memorial must incorporate on or near the base a new plaque or inscription setting out the year and reason for the installation of the replacement memorial, linked with the charitable legacy of Lady Mary Feilding. The wording for the plaque or inscription shall be agreed with the Chair of Diocesan Advisory Committee or a nominated representative on her behalf (in the event of dispute over the wording this matter may be returned to the Court for further directions). The faculty includes permission for introduction of a new stone or plaque to hold the agreed inscription, the shape, material and location to be agreed with the Chair of Diocesan Advisory Committee or a nominated representative on her behalf (save in the event of dispute, where this matter may also be returned to the Court for further direction).

Glyn Ross Samuel
Chancellor
30th January 2022 .